

Union Calendar No. 390

109TH CONGRESS
2D SESSION

H. R. 2679

[Report No. 109-657]

To amend the Revised Statutes of the United States to eliminate the chilling effect on the constitutionally protected expression of religion by State and local officials that results from the threat that potential litigants may seek damages and attorney's fees.

IN THE HOUSE OF REPRESENTATIVES

MAY 26, 2005

Mr. HOSTETTLER (for himself, Mr. WAMP, Mr. NORWOOD, Mr. JENKINS, Mr. PAUL, Mr. DOOLITTLE, Mr. SODREL, Mr. WELDON of Florida, Mr. ALEXANDER, Mr. BACHUS, Mr. PITTS, Mr. INGLIS of South Carolina, Mr. OTTER, Mr. DUNCAN, Mr. JONES of North Carolina, Mr. KINGSTON, Mr. SMITH of Texas, Mr. BARTLETT of Maryland, Mr. POE, and Mr. BARRETT of South Carolina) introduced the following bill; which was referred to the Committee on the Judiciary

SEPTEMBER 14, 2006

Additional sponsors: Mr. HERGER, Mr. RAMSTAD, Mr. GINGREY, Mr. KING of Iowa, Mr. GOODE, Mr. McCOTTER, Mrs. MUSGRAVE, Mr. MARCHANT, Mr. JINDAL, Mr. WILSON of South Carolina, Mr. KLINE, Mr. MCCAUL of Texas, Mr. DEAL of Georgia, Mr. FRANKS of Arizona, Mr. BEAUPREZ, Mr. PENCE, Mr. PLATTS, Mr. RADANOVICH, Mr. MORAN of Kansas, Mr. RYUN of Kansas, Mr. TANCREDO, Mr. MILLER of Florida, Mrs. CUBIN, Mr. SAXTON, Mr. BRADLEY of New Hampshire, Mr. RAHALL, Mrs. EMERSON, Mr. HUNTER, Mr. AKIN, Mr. PICKERING, Mr. BLUNT, Mr. TIAHRT, Ms. FOXX, Mr. SOUDER, Mr. BASS, Mr. CALVERT, Mr. CHABOT, Mr. FEENEY, Mr. BONNER, Mr. GARRETT of New Jersey, Mr. HAYES, Mr. KENNEDY of Minnesota, Ms. HARRIS, Mr. HEFLEY, Mr. FORTUÑO, Mrs. SCHMIDT, and Mr. FORTENBERRY

SEPTEMBER 14, 2006

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To amend the Revised Statutes of the United States to eliminate the chilling effect on the constitutionally protected expression of religion by State and local officials that results from the threat that potential litigants may seek damages and attorney's fees.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Public Expression of
 5 Religion Act of 2005”.

6 **SEC. 2. LIMITATIONS ON CERTAIN LAWSUITS AGAINST**
 7 **STATE AND LOCAL OFFICIALS.**

8 (a) CIVIL ACTION FOR DEPRIVATION OF RIGHTS.—
 9 Section 1979 of the Revised Statutes of the United States
 10 (42 U.S.C. 1983) is amended—

11 (1) by inserting “(a)” before the first sentence;
 12 and

13 (2) by adding at the end the following:

14 “(b) The remedies with respect to a claim under this
 15 section where the deprivation consists of a violation of a
 16 prohibition in the Constitution against the establishment
 17 of religion shall be limited to injunctive relief.”.

1 (b) ATTORNEYS FEES.—Section 722(b) of the Re-
 2 vised Statutes of the United States (42 U.S.C. 1988(b))
 3 is amended by adding at the end the following: “However,
 4 no fees shall be awarded under this subsection with re-
 5 spect to a claim described in subsection (b) of section nine-
 6 teen hundred and seventy nine.”.

7 **SECTION 1. SHORT TITLE.**

8 *This Act may be cited as the “Veterans’ Memorials,*
 9 *Boy Scouts, Public Seals, and Other Public Expressions of*
 10 *Religion Protection Act of 2006”.*

11 **SEC. 2. LIMITATIONS ON CERTAIN LAWSUITS AGAINST**
 12 **STATE AND LOCAL OFFICIALS.**

13 (a) CIVIL ACTION FOR DEPRIVATION OF RIGHTS.—
 14 Section 1979 of the Revised Statutes of the United States
 15 (42 U.S.C. 1983) is amended—

16 (1) by inserting “(a)” before the first sentence;
 17 and

18 (2) by adding at the end the following:

19 “(b) The remedies with respect to a claim under this
 20 section are limited to injunctive and declaratory relief
 21 where the deprivation consists of a violation of a prohibi-
 22 tion in the Constitution against the establishment of reli-
 23 gion, including, but not limited to, a violation resulting
 24 from—

1 “(1) a veterans’ memorial’s containing religious
2 words or imagery;

3 “(2) a public building’s containing religious
4 words or imagery;

5 “(3) the presence of religious words or imagery
6 in the official seals of the several States and the polit-
7 ical subdivisions thereof; or

8 “(4) the chartering of Boy Scout units by compo-
9 nents of States and political subdivisions, and the
10 Boy Scouts’ using public buildings of States and po-
11 litical subdivisions.”.

12 (b) *ATTORNEY’S FEES*.—Section 722(b) of the Revised
13 *Statutes of the United States* (42 U.S.C. 1988(b)) is amend-
14 ed by adding at the end the following: “However, no fees
15 shall be awarded under this subsection with respect to a
16 claim described in subsection (b) of section nineteen hun-
17 dred and seventy nine.”.

18 **SEC. 3. LIMITATIONS ON CERTAIN LAWSUITS AGAINST THE**
19 **UNITED STATES AND FEDERAL OFFICIALS.**

20 (a) *IN GENERAL*.—Notwithstanding any other provi-
21 sion of law, a court shall not award reasonable fees and
22 expenses of attorneys to the prevailing party on a claim
23 of injury consisting of the violation of a prohibition in the
24 Constitution against the establishment of religion brought
25 against the United States or any agency or any official of

1 *the United States acting in his or her official capacity in*
 2 *any court having jurisdiction over such claim, and the rem-*
 3 *edies with respect to such a claim shall be limited to injunc-*
 4 *tive and declaratory relief.*

5 (b) *DEFINITION.—As used in this section, the term “a*
 6 *claim of injury consisting of the violation of a prohibition*
 7 *in the Constitution against the establishment of religion”*
 8 *includes, but is not limited to, a claim of injury resulting*
 9 *from—*

10 (1) *a veterans’ memorial’s containing religious*
 11 *words or imagery;*

12 (2) *a Federal building’s containing religious*
 13 *words or imagery;*

14 (3) *the presence of religious words or imagery in*
 15 *the official seal of the United States and in its cur-*
 16 *rency and official Pledge; or*

17 (4) *the chartering of Boy Scout units by compo-*
 18 *nents of the Armed Forces of the United States and*
 19 *by other public entities, and the Boy Scouts’ using*
 20 *Department of Defense and other public installations.*

21 **SEC. 4. EFFECTIVE DATE.**

22 *This Act and the amendments made by this Act take*
 23 *effect on the date of the enactment of this Act and apply*
 24 *to any case that—*

25 (1) *is pending on such date of enactment; or*

1 (2) *is commenced on or after such date of enact-*
2 *ment.*

Amend the title so as to read: “A bill to amend the Revised Statutes of the United States to prevent the use of the legal system in a manner that extorts money from State and local governments, and the Federal Government, and inhibits such governments’ constitutional actions under the first, tenth, and fourteenth amendments.”.

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